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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/077,735	02/19/2002	Terry Harmston	20137	3583

7590                    07/14/2003

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EXAMINER
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THOMPSON, HUGH B

ART UNIT	PAPER NUMBER
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3634

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DATE MAILED: 07/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. 10/077,735	Applicant(s) Harmston Terry
Examiner Hugh B. Thompson	Art Unit 3634

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on May 5, 2003

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

4)  Claim(s) 13-16 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 13-16 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some\* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1)  Notice of References Cited (PTO-892)      4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_      6)  Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 13-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. With respect to claim 13, line 10, there is no antecedent basis for “the top of each stile”. Further, it appears that rings are positioned *at the top and bottom* of each stile. In lines 11 and 14, there is no antecedent basis for “the highest ring”. In lines 12 and 15, “going around” should read --adapted to encircle--. In line 12, there is no antecedent basis for “the second end”. In lines 13 and 16, “secures” should read --can secure--. In lines 14, 17, 20, 21, 22, and 23 “object” should read --member--. In line 14 “the a” is improper. In line 15, “the second” should read --a second--. In lines 16 and 21, there is no antecedent basis for “the lowest ring(s)”. In line 18, “the length” should read --a length--, and there is no antecedent basis for “the bottom ring”. In line 19, both “straps” appear to be singular. In line 20, there is no antecedent basis for “the highest rings”. In line 22, “the user” should read --a user--.

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4. With respect to claim 14, line 1, "A" should read --The--. In line 2, "the length of the strap" should read --a length of the third strap--. In line 3, 'hook, secures" should read --hook to secure--. In line 4, "a the" is improper. In line 5, "strap" should read --third strap--.
5. With respect to claim 15, line 5, the is no antecedent basis for 'the top section". In line 7, there is no antecedent basis for "the stand off means". In line 10, "the bottom section of the ladder". In lines 10-12, it is unclear as to which mechanism the applicant has referred. In line 12, there is no antecedent basis for "the length of the straps".

#### *Response to Arguments*

6. Applicant's arguments with respect to claims 13-16 have been considered but are moot in view of the new ground(s) of rejection. With respect to claim 13, if the applicant were to recite rings at the top and bottom of each stile,, i.e., corresponding to the highest and lowest/bottom ring of each stile, the claim would be allowable. With respect to claim 15, in line 5, the applicant needs to recite that the straps are attached to the rings at the top section, and then in line 10, the applicant should recite that the straps are attached to respective opposite stiles to rings at respective bottom sections. Were the applicant to properly address the changes as well as the numerous Section 112 ambiguities, the claims would be in condition for allowance.

7. The addition of these features would distinguish from any suggestion of rings at the top and bottom of a section receiving opposed straps from opposed sides of the stiles, i.e., a criss-cross attachment. Though Talley Sr.-436 teaches the utility of a strap 130 attached to around a

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vertical object at opposed sides of the tree stand, and Riley -808 teaches rings used for attachment 47, there is no motivation to attach rings *at the top and bottom* of each side of a stile sections, and two straps criss-crossing so as to encircle the vertical object and attached to respective rings.

*Conclusion*

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Hugh B. Thompson whose telephone number is (703) 305-0102. The examiner can normally be reached on Monday through Friday from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Stodola, can be reached on (703) 308-2686. The official fax phone number for this Group is (703) 305-3597, and the unofficial fax phone number (for drafts) is (703) 746-3641.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.



Hugh B. Thompson

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July 11, 2003